

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TYRELL KNIGHT,)	4:04CV3383
)	
Plaintiff,)	
)	
vs.)	MEMORANDUM
)	AND ORDER
OFFICER MERRILL,)	
)	
Defendant.)	

Pending before the court is the plaintiff's motion to dismiss this case without prejudice as against an unnamed defendant. (Filing 121.) The plaintiff originally filed this action against one defendant, Officer Merrill. (Filing 7, Amended Complaint.) On May 29, 2007, this court granted defendant Merrill's motion for summary judgment and dismissed Merrill from this case with prejudice. The court also granted the plaintiff leave to file an amended complaint to name Joseph Jara as a defendant. (Filing 120.) Instead of filing an amended complaint against Jara, the plaintiff moved to dismiss his claims against Jara without prejudice. (Filing 121.)

Because the plaintiff never actually filed a complaint against Joseph Jara, the plaintiff's motion to dismiss his claims against Jara shall be denied as moot. Judgment will be entered in favor of defendant Merrill and against the plaintiff pursuant to the court's previous grant of summary judgment in Merrill's favor.

Accordingly,

IT IS ORDERED:

1. The plaintiff's motion to dismiss his claims against Joseph Jara (filing 121) is denied as moot;

2. Judgment shall be entered by separate document in favor of defendant Merrill and against the plaintiff, providing that the plaintiff shall take nothing and dismissing this case with prejudice;
3. The plaintiff remains liable for payment of the filing fee in this action.

DATED this 10th day of August, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge